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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,642	12/14/2001	Rohit Ramani	1488.011US1	6405

21186 7590 10/18/2006

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EXAMINER

NG, CHRISTINE Y

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/017,642

Applicant(s)

RAMANI ET AL.

Examiner

Christine Ng

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because:

Referring to the argument that Chapman et al do not disclose an impending congestion indication (page 12, line 22 to page 13, line 18): As shown in Figure 2, "the control unit 200 of node 104 is operative to detect and foresee congestion at the node 104, in response to which it will generate a control signal" (Column 5, lines 12-15). The control signal "generated by control unit 200 takes the form of a congestion stamp applied to a control packet released from the node 104 to the transport ring 102", and each control packet has a congestion notification field. Any intermediate node along the path can set the bits in the congestion notification field of a control packet to "congested", "thus indicating that congestion is being experienced or is being forecasted at the intermediate node". Refer to Column 5, lines 21-32. Furthermore, by "estimating the network data occupancy level, congestion at the node can be effectively foreseen and controlled" (abstract, lines 11-13). Therefore, the congestion notification field is used for forecasting congestion, which is impending congestion.

Referring to the argument that Lee et al do not disclose a congestion alleviation indication (page 13, line 19 to page 14, line 13): Lee et al disclose a congestion control mechanism in which each network element can inform other network elements of congestion by setting the Explicit Forward Congestion Indicator (EFCI) bit in the header of each data cell. A network element in an impending congested state or in a currently congested state may set the EFCI bit. A network element that is not in a congested state or an impending congested state will not modify the value of the EFCI indication. If the EFCI bit is set, the system will lower its cell rate to control congestion. Once the congestion is alleviated, the EFCI bit will be set back to "0" to indicate that the network element is not in a congested state or will not be in a congested state. Refer to Column 2, lines 25-41 and Column 3, line 51 to Column 4, line 10. Even though the EFCI bit does not always equate to congestion alleviation (when there was no prior congestion), the EFCI bit does sometimes equate to congestion alleviation (when there was prior congestion). The claim only claims that after congestion has been alleviated, the header is marked with a congestion alleviation header. Lee et al similarly discloses that after congestion has been alleviated, the EFCI bit changes back to "0" since the system does not need to lower its cell rate anymore, which reads on the "congestion alleviation indication".